

IN THE SENATE

SENATE BILL NO. 1027

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO THE IDAHO WRONGFUL CONVICTION ACT; AMENDING TITLE 6, IDAHO CODE,
2 BY THE ADDITION OF A NEW CHAPTER 35, TITLE 6, IDAHO CODE, TO PROVIDE A
3 SHORT TITLE, TO PROVIDE FOR A CLAIM OF COMPENSATION FOR A WRONGFUL CON-
4 VICTION, TO PROVIDE CERTAIN PROCEDURES AND CRITERIA FOR A CLAIM, TO PRO-
5 VIDE CERTAIN IMMUNITY, TO PROVIDE FOR CERTAIN COMPENSATION AND DAMAGES,
6 TO PROVIDE CERTAIN RESTRICTIONS ON DAMAGES, TO PROVIDE FOR COMPUTATION
7 OF DAMAGES, TO PROVIDE FOR HOW DAMAGES ARE PAID, TO PROVIDE THAT CERTAIN
8 DAMAGES SHALL BE TAX-EXEMPT, TO PROVIDE FOR A CERTIFICATE OF INNOCENCE,
9 AND TO PROVIDE FOR THE CREATION OF THE INNOCENCE FUND; AND DECLARING AN
10 EMERGENCY.
11

12 Be It Enacted by the Legislature of the State of Idaho:

13 SECTION 1. That Title 6, Idaho Code, be, and the same is hereby amended
14 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
15 ter 35, Title 6, Idaho Code, and to read as follows:

16 CHAPTER 35

17 IDAHO WRONGFUL CONVICTION ACT

18 6-3501. SHORT TITLE. This chapter shall be known and may be cited as
19 the "Idaho Wrongful Conviction Act."

20 6-3502. CLAIM OF COMPENSATION FOR WRONGFUL CONVICTION. (1) As used in
21 this chapter, "claimant" means a person convicted and subsequently impris-
22 oned for one (1) or more crimes that such person did not commit.

23 (2) If he meets the requirements of this chapter, a claimant may bring
24 a civil action against the state of Idaho for wrongful conviction. The
25 claimant shall prevail if he establishes each of the following requirements
26 by a preponderance of the evidence:

27 (a) The claimant was convicted of a felony in this state and subse-
28 quently imprisoned;

29 (b) The claimant did not commit the crime for which he was convicted;

30 (c) The claimant did not commit the acts that were the basis of the con-
31 viction;

32 (d) The claimant did not aid, abet, or act as an accomplice or accessory
33 to either the acts or to a person who committed the acts that were the
34 basis for the conviction;

35 (e) The claimant did not commit an included offense of the crime for
36 which he was imprisoned;

37 (f) The claimant establishes that his conviction was reversed or va-
38 cated and either:

39 (i) The claimant was not retried and the charges were dismissed;

40 or

- 1 (ii) The claimant was retried and was found not guilty; and
2 (g) The claimant establishes that the basis for reversing or vacating
3 the conviction was not legal error unrelated to his factual innocence.
4 (3) A claimant shall not prevail on a claim brought pursuant to this
5 chapter if the state shows by a preponderance of the evidence that a claimant
6 pled guilty with the specific intent to protect another party from prosecu-
7 tion for the underlying conviction that forms the basis for the claim.
8 (4) (a) A claimant convicted, imprisoned, and released from custody on
9 or after the effective date of this chapter shall commence an action un-
10 der this section within a period of two (2) years after:
11 (i) The conviction was reversed or vacated and the charges were
12 dismissed; or
13 (ii) The claimant was retried and found not guilty.
14 (b) A claimant convicted, imprisoned, and released from custody before
15 the effective date of this chapter must commence an action under this
16 section within two (2) years of the effective date of this chapter.
17 (5) A claimant shall be entitled to a hearing in district court as expe-
18 ditiously as possible after the filing of a claim.
19 (6) If a person dies prior to filing or during the pendency of a claim
20 under this section, the person's estate may file or maintain a claim pursuant
21 to this section.
22 (7) All provisions of existing law relating to absolute or qualified im-
23 munity shall apply to an action brought pursuant to the provisions of this
24 section.

- 25 6-3503. COMPENSATION. (1) In an action brought pursuant to section
26 6-3502, Idaho Code, damages awarded shall be:
27 (a) (i) Sixty-two thousand dollars (\$62,000) for each year of im-
28 prisonment; or
29 (ii) Seventy-five thousand dollars (\$75,000) for each year of im-
30 prisonment if the claimant was imprisoned on death row; and
31 (b) No less than twenty-five thousand dollars (\$25,000) for each year
32 the person was on parole or no less than twenty-five thousand dollars
33 (\$25,000) for each year the person was required to register as a sex of-
34 fender, whichever period of time was greater.
35 (2) Compensation awarded under subsection (1) of this section shall be
36 computed on a pro rata basis, with damages computed according to the number
37 of days the claimant was imprisoned, on parole, or required to register as
38 a sex offender due to the conviction that is the subject of the action. For
39 purposes of the pro rata calculation, three hundred sixty-five (365) days
40 equals one (1) year. The burden is on the claimant to establish the number of
41 days he was imprisoned, on parole, or required to register as a sex offender.
42 (3) The claimant must establish the damages he is seeking under sub-
43 sections (1), (2), and (4) of this section and the basis for those damages.
44 Awards shall be paid from the innocence fund created pursuant to section
45 6-3505, Idaho Code. Any award of damages shall not accrue post-judgment in-
46 terest, and the provisions of section 28-22-104, Idaho Code, shall not apply
47 to such damages. A court shall not award, and a claimant shall not receive,
48 compensation for any period of imprisonment during which the claimant was
49 serving a sentence for a conviction of another offense for which the claimant

1 was lawfully convicted and imprisoned. The claimant shall not receive com-
2 pensation for any period of time that he was on parole or required to register
3 as a sex offender during which the claimant was paroled or required to regis-
4 ter as a sex offender for another offense for which the claimant was lawfully
5 convicted.

6 (4) In addition to the damages awarded pursuant to subsection (1) of
7 this section, the claimant may be entitled to the following:

8 (a) Reasonable attorney's fees and costs incurred in the action brought
9 pursuant to this chapter not to exceed a total of twenty-five thousand
10 dollars (\$25,000), unless a greater reasonable total is authorized by
11 the court upon a finding of good cause shown; and

12 (b) Reentry services offered through the department of correction, as
13 applicable.

14 (5) If a claimant in a separate civil action related to the wrongful
15 conviction has won a monetary judgment against, or entered into a settle-
16 ment agreement with, the state or any political subdivision, the amount of
17 any such award or settlement collected by the claimant, less attorney's fees
18 and litigation costs, shall be deducted from the sum of money to which the
19 claimant is entitled to under this section. If a claimant first receives
20 compensation under this section and then in a separate civil action wins a
21 monetary judgment against, or enters into a settlement agreement with, the
22 state or any political subdivision related to the wrongful conviction, the
23 claimant shall reimburse the state. The reimbursement shall be for the sum
24 of the monetary payment awarded under this section, less attorney's fees and
25 litigation costs, up to the amount of the award or settlement in the civil ac-
26 tion. If a claimant first receives compensation under this section and then
27 in a separate civil action related to the wrongful conviction wins a monetary
28 judgment against, or enters into a settlement agreement with, the state or
29 any political subdivision, the claimant shall notify and reimburse the state
30 of such compensation.

31 (6) Any damages awarded pursuant to subsection (1) of this section
32 shall be tax-exempt in the state of Idaho.

33 6-3504. CERTIFICATE OF INNOCENCE. If the court finds that the
34 claimant is entitled to a judgment pursuant to section 6-3502, Idaho Code, it
35 shall enter a certificate of innocence finding that the claimant was inno-
36 cent of all crimes for which the claimant was mistakenly convicted.

37 6-3505. INNOCENCE FUND CREATED. There is hereby created in the state
38 treasury the innocence fund. The fund shall consist of moneys that may be
39 provided by legislative appropriation and any reimbursements made to the
40 state by claimants. The state treasurer shall invest the idle moneys of the
41 fund, and the interest earned on such investments shall be retained by the
42 fund. Moneys in the fund are continuously appropriated to be used solely for
43 carrying out the provisions of this chapter.

44 SECTION 2. An emergency existing therefor, which emergency is hereby
45 declared to exist, this act shall be in full force and effect on and after its
46 passage and approval.